

IN THE COURT OF THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM
UNDER CONSUMER PROTECTION ACT, 1986 AT NIZAMABAD

Quorum Sri T.Ashok Kumar, M.A., LL.B ...President

 Smt.K.Vinaya Kumari, M.A., LL.B., ...Member

 Sri D.Shankar Rao, B.Com., B.L., ...Member

Dated this the 24th day of May, 2011

C.C.No.41 of 2010

Date of complaint: 21-04-2010

Date of Order: 24-05-2011

Between:

R.Rammohan Rao S/o Hanmanth Rao, aged about 40 years, occ: Lineman at Morthad
R/o Dharmaram (B) Village, Mandal Dichpally, Nizamabad District.

Complainant

AND

J.Naresh S/o Muthenna, aged about 44 years, occ: Information Officer (RTI Act, 2005) &
Divisional Engineer Operation), O/o NPDCL, ARmoor Division, Nizamabad District.

Opposite party

This consumer case coming on 3-5-2011 for final hearing before us, but no such arguments advanced by any of the parties to the proceedings and upon available material on record and this matter have stood for consideration till this day and this Forum made the following:

ORDER

(By Sri D.Shankar Rao, Member)

1. The brief facts set out in the complaint are that the complainant is working as lineman at Morthad and he was suspended when he had worked as lineman at in NPDCL for the issue of Electrical accident under Armoor Division where the opposite party was being worked as Divisional Engineer for operation. Thereafter the complainant was re-instated as per the orders of the Hon'ble A.P. High Court in W.P. No.20777 of 2008 on the basis of departmental enquiry report. The salary arrears of the complainant were stopped, even after transferred him to as lineman. Then he has felt that he was lonely victimized and on which he filed an application on 28-10-2009 before the opposite party who being information officer under Right to Information Act, 2005 and requested him for furnishing information regarding show-cause notices against labourers and non labourers and details of pending and disposals of said notices during the period from 11-7-2007 to 28-10-2009. The opposite party who being information officer has to furnish the said information within one month. But no information is furnished to till the date of complaint. The act of the opposite party is nothing but deficiency of service as per consumer protection Act, 1986 and he is liable to

pay an amount of Rs.99,000/- as compensation from his own pocket.

2. The opposite party has filed counter and stated that there is no consumer relationship between complainant and opposite party and Forum has no jurisdiction to entertain the complaint under consumer protection Act, 1986. The complainant has to prefer an appeal before the Commissioner at under Right to Information Act, if a dispute arises for non communication of information. Further stated that the information sought by complainant is confidential in nature and it falls under exempted category U/s 8(1)(f) and 8(1)(i) of Right to Information Act and intimated the same vide letter No.DEE/OP/ARR/Adm C2/D.No.87/09 dated 18-4-2010. The complainant is charged with act of gross negligence in connection with an electricity accident and the department has every right to proceed against him. The complainant was re-instated into service as per the orders of the Hon'ble High Court in W.P.No.20777/2008. The complainant is not the lonely person to face the departmental enquiry, wherever the employees of APNPDCL were found acting detrimental to the interest of the Corporation, they all are being charged with the same and departmental enquiries are being conducted against them. It is not necessary for the opposite party to furnish the entire list of such cases pending or finalized to the complainant. The complainant is concerned with his own case and not with the cases of others. The opposite party is not liable to pay compensation as claimed and dismiss the complaint.

3. During the enquiry, the complainant has filed his affidavit as PW1 and marked Ex.A1 document and closed his evidence. The opposite party has filed his affidavit as RW1 and no document is marked and closed his evidence.

4. The points for consideration are:

- (i) Whether the Forum has jurisdiction to entertain the case?
- (ii) Whether there is any deficiency of service on the part of opposite party?
- (iii) To what relief ?

5. Point No.1:- The grievance of the complainant who is lineman in NPDCL is that his salary arrears were stopped evenafter re-instated as per the orders of Hon'ble A.P. High Court in W.P.No.20777 of 2008 and transferred him to Morthad Village and felt that he was lonely being victimized and on which he has filed an application on 28-10-2009 before opposite party who being information officer and sought information under Right to Information Act, 2005 regarding show-cause notices against labourers and non-labourers in Armoor Division and details of pending and disposals of said notices during the period from 11-7-2007 to 28-10-2009. The opposite party was

required to furnish information within one month as per section 7(1) of Right to Information Act 2005, but said information was not furnished within stipulated period which according to complainant amounts to deficiency of service and claiming compensation of Rs.99,000/- and costs of Rs.1,000/-. The complainant has filed his affidavit as PW1 evidence and marked Ex.A1 document .

The opposite party has filed counter and his affidavit as RW1 evidence and stated that the grievance of the complainant is not maintainable under consumer protection Act 1986. There is an appeal provision under Right to Information Act 2005 if a dispute arises for non-communication of information which called for. The information sought by complainant is confidential in nature and it falls under exempted category U/s 8(1)(f) and 8 (1)(i) and same was informed to complainant vide letter No.DDE/OP/ARR/Adm C2/DNo.87/09 dated 18-4-2010.

The aforesaid facts on both side have raised the maintainability of complaint under consumer protection Act 1986. The complainant has submitted judgement in Revision petition No.1975 of 2005 passed by the Hon'ble National Consumer Disputes Redressal Commission, on 28-5-2009 at the time of Registration of complaint. After perusal of the judgement the complainant was registered as CC No.41/2010. According to the said judgement the grievance of the complainant comes under the purview of consumer protection Act 1986 as per section 3 and section 2(1) (O) which provides additional remedy and service of any description to the potential users respectively. The overriding effect as per section 22 and bar of jurisdiction as per section 23 of Right to Information Act 2005 are not applicable against consumer protection Act 1986 in view of Right to Information Act does not have overriding effect on Consumer Protection Act, 1986 and the consumer Fora are not courts under consumer protection Act 1986. Therefore the consumer Forum has jurisdiction to entertain the complaint in respect of deficiency of service in the said facts when information sought was not furnished as per section 7(1) of Right to Information Act, 2005. Accordingly the point No.1 is answered in favour of complainant.

6. Point No.2 & 3 : Admittedly the complainant has sought information on 28-10-2010 as per Ex.A1 from opposite party. But the opposite party did not furnish or reject the information by any reason within one month as per section 7(1) of Right to Information Act 2005. The opposite party pleaded that the application dated 28-10-2009 which sought information as per Ex.A1 for the complainant was rejected as per section 8(1)(f) and 8 (1)(i) of Right to Information Act 2005 as the nature of information is confidential and

intimated the same to complainant vide letter No.DDE/OP/ARR/Admn C2/DNo.87/09 dated 18-4-2010. It is not placed on record. The complainant has deposed in his affidavit that the opposite party in hurry manner rejected his application in Ex.A1 and issued proceedings with back-date on 18-4-2010 after filed the complaint and kept the same in their record without serving against him. Admittedly the complaint was filed on 21-4-2010. The said rejection proceedings dated 18-4-2010 was happened to be Sunday. The information was sought on 28-10-2009. The opposite party has to give information or rejection of Ex.A1 would be done on or before 27-11-2009 as per section 7(1) of Right to Information Act 2005. Even if it is the oral plea of opposite party which is not having any basis or record or acknowledgement there was a gap of 5 months 28 days from the date of Ex.A1 to the pleaded rejection of Ex.A1 proceedings stated to be issued on 18-4-2010. Hence there is stuff in the plea of complainant. In any angle the opposite party has failed to prove that the rejection proceedings dated 18-4-2010 of Ex.A1 was served on complainant with in stipulated period as per section 7(1) of Right to Information Act or any date before filling the complaint. Hence there is deficiency of service on the part of opposite party who being information officer and held that he is liable to pay an amount of Rs.3,000/- as compensation to the complainant and costs of Rs.1,000/- to meet justice. Accordingly the points 2 and 3 are answered in favour of complainant.

7. In the Result, the complaint is allowed partly as under:-

- 1) The opposite party is directed to pay an amount of Rs.3,000/- as compensation to the complainant within one month from the date of receipt this order, failing which he shall pay the said amount with interest @ 9% per annum from the date of completion of one month till date of realization.
- 2) The opposite party is directed to pay an amount of Rs.1,000/- towards costs to the complainant.

Typed to dictation, corrected and pronounced by the Member in Open Forum on this the 24th day of May 2011.

MEMBER

MEMBER

PRESIDENT

:: APPENDIX OF EVIDENCE ::

(Witnesses examined on behalf of)

For the Complainant :

Affidavit of Complainant

Filed as evidence

For the Opposite Party:

Counter affidavit of

opposite party filed

As evidence

:: EXHIBITS MARKED ::

Ex.A1 Photostat copy of written representation dated 28-10-2009 addressed to the opposite party

For the Opposite party:

NIL

MEMBER

MEMBER

PRESIDENT